#### STATE OF HAWAII

### HAWAII LABOR RELATIONS BOARD

In t In the Matter of DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS,	CASE NO. OSH 2006-1 (INSPECTION NO. 309454726) ORDER NO. 182
Complainant,	PRETRIAL ORDER
vs.	
INTERNATIONAL ROOFING & BUILDING CONSTRUCTION, INC.,	
Respondent.	)

## PRETRIAL ORDER

Pursuant to the representations by respective counsel and representative of the parties at an initial conference held by the Hawaii Labor Relations Board (Board) on February 21, 2006 and thereafter in Respondent's First Amended Initial Conference Statement filed on March 7, 2006, IT IS HEREBY ORDERED THAT:

1. The issues to be determined are:

# Citation 1, Item 1 - 29 CFR 1926.501(b)(13)

- (a) Whether Respondent violated 29 CFR 1926.501(b)(13) relating to fall protection as described in Citation 1, Item 1, issued on January 9, 2006?
- (b) Whether Respondent may rely on any affirmative defense, including unforseeable employee misconduct?
- (c) Whether the characterization of the violation as "Repeat" is appropriate? If not, what is the appropriate characterization?
- (d) Whether the imposition and amount of the \$7,500.00 penalty is appropriate? If not, what is the appropriate penalty?
- 2. Discovery and other deadlines are:

List of unnamed and live witnesses

March 21, 2006

Discovery cutoff

April 28, 2006

- 3. Trial is scheduled on May 23, 2006 at 9:30 a.m., or as soon thereafter as this case can be heard, in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii 96813.
- 4. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, March 9, 2006

HAWAII LABOR RELATIONS BOARD

BRIAN K. NAKAMURA, Chair

EMORY J. SPRINGER, Member

## NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General Neal K. Aoki, Esq.